



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF POLICY

August 14, 2014

Mr. Charley Barth, Director
Office of the Federal Register (NF)
National Archives and Records Administration
700 Pennsylvania Ave NW
Washington DC 20408-0001

Dear Mr. Barth:

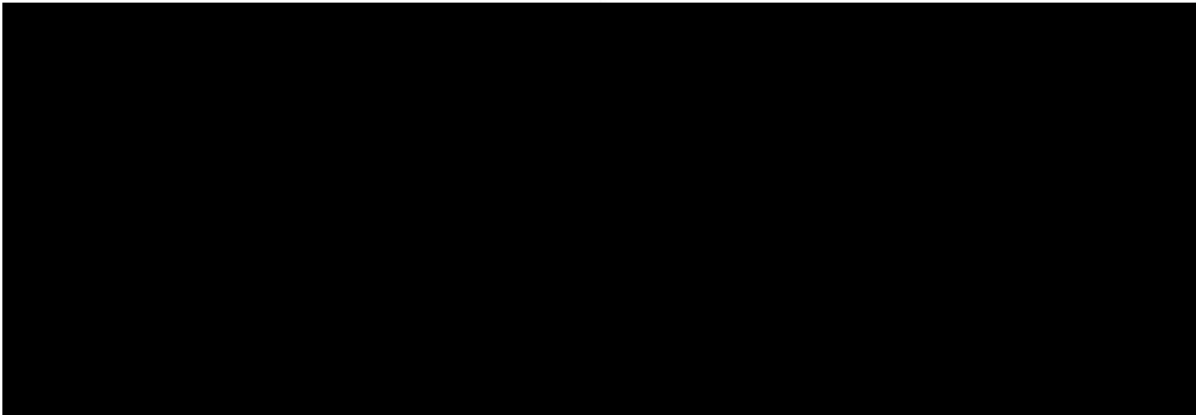
This letter is to request the following corrections to **Document Number - 2014-12164-WORK; FRL 9817-3**. Final rule entitled "National Pollutant Discharge Elimination System—Final Regulations to Establish Requirements for Cooling Water Intake Structures at Existing Facilities and Amend Requirements at Phase I Facilities," [EPA-HQ-OW-2008-0667, FRL-9817-3]; RIN **2040-AE95**; amending parts 122 and 125 of title 40 CFR that is presently scheduled to publish on Friday, August 15, 2014.

The following corrections needed are (I am using the "2014-12164-WORK_smEdits7-21-2014+OW errors memo7-18-2014.Monday morning.docx" file to note page numbers:

1. The public comment period on the ICR for this rule ended, and one of our commenters pointed out the following:
 - On pages 196, 547, 549, and 560, there are single instances each of "125.95(c)", each of which should instead be "125.94(c)".

(b) (5)

A large black rectangular redaction box covers the majority of the lower half of the page, starting below the list and extending to the bottom margin. The text "(b) (5)" is printed in red at the top left corner of this redacted area.



I have attached the reference pages (see highlighted text) for your review.

Should you have any questions, please feel free to contact me on the number below or email me at morris.stephanie@epa.gov and EPA-FederalRegisterLiaison.gov.

Sincerely,

Stephanie Morris
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Attachments

decrease environmental impacts associated with intake operations. Therefore, the final rule allows facilities with intake structures at significant distances offshore to demonstrate the performance of their technology under § 122.954(c)(6), as further discussed below.

In addition facilities may opt to construct an offshore velocity cap at new locations. In those circumstances, the facility will need to demonstrate that the performance of its velocity caps is the best technology available for impingement reduction under the alternative found at § 122.954(c)(6). For more information, see DCN 12-6601.

EPA estimates that approximately 1 percent of intake structures (i.e., those with an existing velocity cap meeting the definition at § 125.92(v)) will choose this alternative.

d. Install Modified Traveling Screens

In the June 11, 2012 NODA, EPA discussed a streamlined compliance option that would provide facilities with a less burdensome alternative than the proposed rule. In the final rule, EPA has included an option at § 125.954(c)(5) for facilities that install traveling screens – the technology that forms the basis for the numeric IM performance standards. Under this option, the facility must demonstrate to the Director that it will install and operate modified traveling screens as defined at § 125.92(s) that are or will be optimized to minimize IM mortality at the site. The facility will also be required to submit an impingement technology performance optimization study (§ 122.21(r)(6)) which will include a 2-year optimization study for the intake technology. The facility will conduct 2 years of monthly impingement data collection, during which the facility will seek to

(g) *Certification.* The owner or operator of a facility must certify that its permit application is true, accurate and complete pursuant to § 122.22(d) of this chapter.

§ 125.96 Monitoring requirements.

(a) *Monitoring requirements for impingement mortality for existing facilities.*

The Director may establish monitoring requirements in addition to those specified at § 125.94(c), including, for example, biological monitoring, intake velocity and flow measurements. If the Director establishes such monitoring, the specific protocols will be determined by the Director.

(b) *Monitoring requirements for entrainment for existing facilities.* Monitoring requirements for entrainment will be determined by the Director on a site-specific basis, as appropriate, to meet requirements under § 125.94(d).

(c) *Additional monitoring requirements for existing facilities.* The Director may require additional monitoring for impingement or entrainment including, but not limited to, the following:

(1) The Director may require additional monitoring if there are changes in operating conditions at the facility or in the source waterbody that warrant a re-examination of the operational conditions identified at 40 CFR 122.21(r).

(2) The Director may require additional monitoring for species not subject to the BTA requirements for impingement mortality at § 125.954(c). Such monitoring requirements will be determined by the Director on a site-specific basis.

(d) *Monitoring requirements for new units at existing facilities.* Monitoring is required to demonstrate compliance with the requirements of § 125.94(e).

of all life stages of fish and shellfish. Specific monitoring protocols and frequency of monitoring will be determined by the Director. You must follow the monitoring frequencies identified by the Director for at least two years after the initial permit issuance. After that time, the Director may approve a request for less frequent monitoring in the remaining years of the permit term and when a subsequent permit is reissued. The monitoring must measure the total count of entrainable organisms or density of organisms, unless the Director approves of a different metric for such measurements. In addition, you must monitor the AIF for each intake. The AIF must be measured at the same time as the samples of entrainable organisms are collected. The Director may require additional monitoring necessary to demonstrate compliance with § 125.94(e).

(4) The Director may require additional monitoring for impingement or entrainment at the cooling water intake structure used by a new unit including, but not limited to, the following:

(i) The Director may require additional monitoring if there are changes in operating conditions at the facility or in the source waterbody that warrant a re-examination of the operational conditions identified at 40 CFR 122.21(r).

(ii) The Director may require additional monitoring for species not subject to the BTA requirements for impingement mortality at § 125.954(c). Such monitoring requirements will be determined by the Director on a site-specific basis.

(e) *Visual or remote inspections.* You must either conduct visual inspections or employ remote monitoring devices during the period the cooling water intake structure is in operation. You must conduct such inspections at least weekly to ensure that any

is already doing. The Director may reject an otherwise available technology as a BTA standard for entrainment if the social costs are not justified by the social benefits.

(g) *Ongoing permitting proceedings.* In the case of permit proceedings begun prior to [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]~~INSERT effective date of the final rule~~ whenever the Director has determined that the information already submitted by the owner or operator of the facility is sufficient, the Director may proceed with a determination of BTA standards for impingement mortality and entrainment without requiring the owner or operator of the facility to submit the information required in 40 CFR 122.21(r). The Director's BTA determination may be based on some or all of the factors in paragraphs (f)(2) and (3) of this section and the BTA standards for impingement mortality at § 125.954(c). In making the decision on whether to require additional information from the applicant, and what BTA requirements to include in the applicant's permit for impingement mortality and site-specific entrainment, the Director should consider whether any of the information at 40 CFR 122.21(r) is necessary.

(h) The Director must transmit all permit applications for facilities subject to ~~Subpart J~~this subpart to the appropriate Field Office of the U.S. Fish and Wildlife Service and/or Regional Office of the National Marine Fisheries Service upon receipt for a 60 day review prior to public notice of the draft or proposed permit. The Director shall provide the public notice and an opportunity to comment as required under 40 CFR 124.10 and must submit a copy of the fact sheet or statement of basis (for EPA-issued permits), the permit application (if any) and the draft permit (if any) to the appropriate Field Office of